



17 December 2010

**By email ([yhcheung@legco.gov.hk](mailto:yhcheung@legco.gov.hk)) and by post**

Your Ref.: CB1/BC/01/10  
Our Ref.: C/EPLM(32), M74462

The Hon Chan Kam-lam  
Chairman  
Bills Committee on Anti-Money Laundering and  
Counter-Terrorist Financing (Financial Institutions) Bill  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Central, Hong Kong

Dear Mr. Chan,

**[Bills Committee on Anti-Money Laundering and  
Counter-Terrorist Financing \(Financial Institutions\) Bill](#)**

Thank you for inviting the Institute's views on the legislation referred to above. Our comments are confined to Schedule 2 of the Bill.

Part 2, Division 4, section 18 of Schedule 2 provides for financial institutions ("FIs") to conduct customer due diligence ("CDD") measures by means of a specified intermediary, subject to certain conditions and for a given period of three years beginning on the date of commencement of the legislation.

Amongst the intermediaries specified in subsection 3 is "a certified public accountant (practising) practising in Hong Kong". Subsection 7 states that "certified public accountant (practising) has the meaning given by section 2(1) of the Professional Accountants Ordinance (Cap. 50)" ("PAO").

When the proposal to allow FIs to continue to rely on certain intermediaries was put forward in the consultation conducted by the Financial Services and the Treasury Bureau, in December 2009 (*Proposed New Legislation on the Customer Due Diligence and Record-Keeping Requirements for Financial Institutions and the Regulation of Remittance Agents and Money Changers*), we expressed general support for this proposal, commenting also on the period that the relevant provision should remain in force. A copy of the Institute's submission on the consultation document is attached.

The proposal contained in the consultation document was that "a special arrangement be made to allow FIs to rely on lawyers, accountants and specified trust and company service providers (chartered secretaries and trust companies registered under the Trustee Ordinance, Cap 29) in Hong Kong in carrying out CDD provided that the FIs are satisfied that the intermediaries to be relied on have put in place adequate procedures to prevent money laundering." (See paragraph 3.14 of the consultation document. Emphasis added).



However, by referring to a “certified public accountant (practising)” under section 2(1) of the PAO, the bill limits this concession in the case of accountants to practising certificate (“PC”) holders, i.e., those members of the Institute that are entitled to sign audit reports, which is around 3800 out of a membership of over 30,000.

We see no reason to limit the provision in this way. All CPAs under the PAO, whether PC holders or not, are governed by the professional standards, including the code of ethics, administered by the Institute and are subject to the same regulatory and disciplinary regime. Members of the Institute who, for example, undertake company services and trust work will act on behalf of clients and may be asked to assist in setting up bank accounts and act as intermediaries with FIs on behalf of their clients, who may be overseas investors or other persons not ordinarily residing in Hong Kong. Some of the entities undertaking this work may be associated with CPA firms, but there is no requirement for the CPAs involved to hold a PC and, in fact, they may not have taken/passed the Institute's PC examinations and/or have audit experience and, as such, will not be in position to obtain a PC.

Under the circumstances, we would ask the Bills Committee to seek an amendment to the bill, by deleting the reference to “certified public accountant (practising)” in subsections 3 and 7 of Part 2, Division 4, section 18 of Schedule 2 and replacing it with “certified public accountant”.

Yours sincerely,

A handwritten signature in black ink that reads 'Peter Tisman'. The signature is written in a cursive, flowing style.

Peter Tisman  
Director, Specialist Practices

PMT/ay

c.c. The Hon. Paul M.P. Chan



4 February 2010

**By email ([aml\\_consultation@fstb.gov.hk](mailto:aml_consultation@fstb.gov.hk)) and by post**

Our Ref.: C/EPLM(32), M68541

Division 7, Financial Services Branch  
Financial Services and the Treasury Bureau  
The Government of the Hong Kong SAR  
18/F, Admiralty Centre, Tower 1  
18 Harcourt Road  
Hong Kong

Dear Sirs,

**[Proposed new legislation on the customer due diligence and record-keeping requirements for financial institutions and the regulation of remittance agents and money changers – detailed proposals](#)**

The Institute would like to thank you for inviting our views on the above consultation.

As the detailed proposals in the consultation document are aimed primarily at financial institutions, we have not commented in detail on them. However, with regard to the proposal on third party reliance, set out in paragraphs 3.12 to 3.15 and item 10 of Annex A, in principle we support and welcome the arrangement to continue allowing reliance on third parties (including accountants) on the basis described, until a date to be appointed by secretary for financial services and the treasury by notice in the gazette. In determining the expiry date of this arrangement, we would suggest that this be no earlier than the time at which legislation on customer due diligence and record keeping has been brought in force for designated non-financial businesses and professions (DNFBP), and an appropriate supervisory framework for DNFBP has been established.

We should be grateful if you would alert us of any further developments in respect of the above issue and we would hope to be invited to comment on any related consultation affecting the accounting profession.

Yours faithfully,

Peter Tisman  
Director, Specialist Practices

PMT/EC/ay